

REMARKS/ARGUMENTS

In the office action dated December 2, 2009, the Applicant submits amendments of claims 1, 6, 11, 17, 19, and 21 – 22. Reconsideration based on the amendments and the following remarks is respectfully requested.

37 CFR 1.83(a)

The examiner objected to the drawings as not showing the features of claims 4, 5, 9 and 10. Claims 4, 5, 9 and 10 are now cancelled.

35 USC § 102

The examiner rejected claims 1-2, 6-7, and 11 under 35 USC § 102(b) as anticipated by Pinciario. Reconsideration based on the amendments and following remarks is respectfully requested.

One object of applicant's spa jet fitting is to provide substantially increased user comfort relative to a fitting which protrudes from the bath wall surface as is conventional, when a user sitting in the bath leans back against the bath wall. Claim 1 before amendment therefore required that the front face of the spa jet fitting 'not protrude beyond a surface of the bath wall around the spa jet fitting'. The examiner cites Figure 4 of Pinciario for illustrating this limitation. Figure 4, however, does not meet these limitations of the claim, but rather shows that the fitting protrudes beyond the bath wall surface immediately around it. Specifically, Figure 4 shows a scallop in the bath wall (unnumbered) and a fitting that sits above the bath wall immediately around the fitting in this scallop. Claim 1 is therefore not anticipated by Pinciario. Moreover, the substantially increased user comfort of Applicant's invention is not provided by the fitting of Pinciario because the fitting protrudes considerably from the bath wall immediately surrounding it.

Claim 1 is now also amended to recite specifically that the spa jet fitting is 'mounted within a recess formed in the wall of the spa bath ... having a diameter across the recess substantially the same as the diameter of the front part of the spa jet fitting, the front face of the spa jet fitting not protruding beyond the surface of the bath wall immediately around the front part of the spa jet fitting'. Pinciario discloses a spa bath in which the diameter or width of the scallop is much greater than the diameter or width of the exposed front part of the fitting itself, rather than substantially the same as recited in the claim. In Pinciario, a wide annular channel is therefore formed immediately around the fitting between the periphery of the fitting and the outer edge of the scallop (the outer edge of the scallop being where the scallop then tapers up to the plane of the bath wall around the scallop). The wide channel, again, will cause substantial user discomfort, and therefore does not serve to improve bather comfort as provided by applicant's invention recited in claim 1. Claim 1 as amended, therefore, is not anticipated by Pinciario for this reason as well.

Claim 2 has been amended to recite that the front face of the spa jet fitting is 'substantially flush with the surface of the bath wall immediately around the front face of the spa jet fitting'. Claim 2 is not anticipated by Pinciario.

Claim 6 as amended requires that the mounting recess is in the surface of the bath wall and has inwardly angled side walls which also comprise part of the wall of the spa bath. The tapered edge portion about the periphery of the front part of the fitting seats against the inwardly angled side walls of the recess, which self-centres the spa jet fitting in the mounting recess. The tapered part 34 of the fitting of Pinciario pointed to by the examiner is not about the front part of the fitting. It is not disclosed that the edge portion 34 of the fitting of Pinciario seats in a recess

and contacts the side walls of the recess, in the side wall of the bath. Claim 6 as amended and thus claim 7 are not anticipated by Pinciario.

Claim 11 as amended requires that the spa bath fitting comprises a rear part or back nut having a leading edge to contact the rear surface of a mounting recess in the bath wall with angled side walls, which leading edge of the back nut is tapered with reducing diameter toward a rear part of the fitting. This assists in centring the spa bath fitting in the recess in the side wall of the bath, by the tapered leading edge of the back nut contacting the rear surface of the angled side walls of the mounting recess in the bath wall. No such structure is disclosed in Pinciario. Claim 11 is not anticipated by Pinciario.

The examiner rejected claims 17-27 as anticipated by Gravatt. The examiner said:

‘Gravatt discloses a spa bath fitting including: a front part 4 including a wide diameter front face which is exposed to the interior of the bath when fitting is mounted in the side wall or base of a bath, a rear part 2 which is positioned on the rear side of the bath wall or base when the fitting is mounted in a bath and with which the front part is threadedly connected, and a back nut 16 mounted on the rear part for fixing the fitting in the bath wall or base.’

Gravatt does not anticipate claim 17 as amended at least for the following reasons:

- The part 4 of the Gravatt jet which the examiner identifies as the front part is not ‘threadedly connected’ to the part 2 which the examiner identifies as the rear part. The front part 4 of Gravatt has no ‘tail ... which has a threaded end which threadedly connects with the rear part’ of the Gravatt fitting.
- The nut 16 of Gravatt is not ‘mounted on the rear part’ of the Gravatt fitting but threads onto the front part 4.

The examiner rejected claims 17-19 and 23-24 as anticipated by Gargle. The examiner said:

‘Gargle discloses a spa bath fitting including: a front part 25 including a wide diameter front face which is exposed to the interior of the bath when the fitting is mounted in the side wall or base of a bath, a rear part 15 which is positioned on the rear side of the bath wall or base when the fitting is mounted in a bath and with which the front part is threadedly connected, and

a back nut 31 mounted on the rear part for fixing the fitting in the bath wall or base.'

Gargle does not anticipate claim 17 as amended at least for the following reasons:

- Gargle does not comprise a front ring and a separate front part behind the front ring. If the part 28 of Gargle is regarded as the front ring then there is no separate front part while on the other hand if the part 28 of Gargle is regarded as the front part then there is no separate front ring.
- Claim 17 as amended requires that there is a front part and back nut, between which in use the bath wall or base around the aperture in which the fitting is mounted is captured to mount the fitting in the bath wall or base, and a separate front ring which connects to and is mounted in the front part, and no such structure is disclosed in Gargle.

A fitting as defined in claim 17 comprising threadedly coupled front and rear parts and a separate back nut and a separate front ring which connects to the front part, enables the position of the front face of the fitting to be adjusted relative to the surface of the bath wall, relative to the rear part separate from tightening of the back nut to fix the fitting in place, as disclosed in the specification of the subject application. This enables fine adjustment during installment of the fitting of the position of the exposed front face of the front ring of the fitting relative to the bath wall. Neither Gravatt nor Gargle provide this functionality.

35 USC § 103

The examiner rejected under 35 USC § 103(a) claims 5 and 10 as anticipated by Pinciario in view of Cohen. Claims 5 and 10 are now cancelled.

The examiner rejected claims 3, 4, 8 and 9 over Pinciario in view of Loizeaux. The rejection of claims 3 and 8 is moot because these claims are dependent on claims 1 and 6 which have been amended and are allowable for the reasons stated above. Claims 4 and 9 have been cancelled.

Conclusion

In view of the foregoing amendments and remarks, claims 1 – 3, 6 – 8, 11 – 17, 19, and 21 – 25 are believed to be in condition for allowance, and a notice of allowance for these claims is respectfully requested.

A three month extension fee is necessary for entry of this response. The Commissioner is hereby authorized to charge \$1,110.00, based on large entity, and any other fees under 37 CFR § 1.17 that may be due on this application to Deposit Account 17-0055. The Commissioner is also authorized to treat this amendment and any future reply in this matter requiring a petition for an extension of time as incorporating a petition for extension of time for the appropriate length of time as provided by 37 CFR § 136(a)(3).

Respectfully submitted,
John Hatrick-Smith, *et al.*

Dated June 2, 2010

By: /Terri S. Flynn/
Terri S. Flynn
Quarles & Brady LLP
Reg. No. 41,756
Attorney for Applicant
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497
(414) 277-5229